



Legal Update

March 2017

The SJC holds that the police were not justified in impounding a motor vehicle that was lawfully park in a partially residential neighborhood that was a high crime area, but where motor vehicle-related crimes were low!

Issue: Was the decision to impound the defendant's motor vehicle reasonably necessary based on the **totality of the circumstances**?

Commonwealth v. Atreyo Crowley-Chester, SJC No. 12128 (2017): Springfield Police were on patrol when they observed a dark-colored Honda legally parked next to a vacant lot, across the street from a church with its engine running and lights off. As the officers approached the vehicle and illuminated the vehicle's interior, they observed the occupants making furtive movements. The defendant, Atreyo Crowley-Chester was seated in the passenger seat and had an unknown object in his hand. The police also observed a knife in the center console. Due to safety concerns, the police issued an exit order. When the driver left the vehicle, a rock-like substance resembling "crack cocaine" fell to the ground. The police arrested the driver for possession of crack and secured the knife they had observed. The driver requested that the defendant, who was free to leave at the time, drive the vehicle. However, the police impounded the vehicle after confirming that the defendant did not have a driver's license.

The police conducted an inventory search in compliance with their departmental policy. A number of items were recovered including a backpack with the name “Atreyo,” on it. The defendant was arrested and charged with carrying a firearm without a license, in violation of G. L. c. 269, § 10(a), and possession of a firearm or ammunition without a firearm identification (FID) card, in violation of G. L. c. 269, § 10(h), after police found a firearm inside the backpack. The defendant filed a motion to suppress in District Court. During the motion hearing, a CAD log of telephone calls regarding criminal activity for three streets in the area including the street where the Honda was parked were introduced into evidence. The CAD sheet consisted of calls concerning criminal activity consisting of drug and firearm offenses, gang activity, domestic violence, and breaking and entering into motor vehicles and businesses. **However, the CAD log contained only one entry indicating a motor vehicle-related crime.** The District Court judge allowed the motion to suppress.

The Appeals Court reversed the District Court’s ruling because the motion judge applied the wrong legal standard regarding the impoundment of the vehicle. The legal standard is not based upon necessity, but rather if the police reasonably undertook the inventory search based on the circumstances confronting them. The SJC heard the case on further appeal.

Conclusion: The SJC affirmed the allowance of the motion to suppress and found that impounding the vehicle was unnecessary because there was not a public safety issue.

The Commonwealth argued that given the hour and the location of where the vehicle was parked in a high crime area, it was reasonable for police to impound the motor vehicle. The SJC disagreed and concluded that “the over-all frequency of crime in an area is not relevant for purposes of impounding the motor vehicle, but rather “the risk of vandalism, theft, or vehicle break-ins.”

In prior decisions, the SJC found that when it had considered a high crime area as a factor for impoundment, there were other circumstances in play. In *Commonwealth v. Eddington*, 459 Mass. 104 (2011), “the police had dictated the location of the stop by signaling the driver to pull over. Additionally, in *Commonwealth v. Ellerbe*, 430 Mass. 769, 776 (2000), the vehicle was parked in a private lot, which the SJC found appropriate for police to impound rather than burden the owner of the private lot with the vehicle parked there. Here the driver was stopped and legally parked before the police became involved.

For specific guidance on the application of these cases or any law, please consult with your supervisor or your department’s legal advisor or prosecutor.

The SJC further stated that in order “to justify a decision for impoundment, the police need more than the circumstance of a vehicle being stopped and its driver being arrested in a high crime area.” Here, police did not have reasonable grounds to impound the vehicle for the purpose of protecting it from theft or vandalism. The Court noted that other cars were lawfully parked on the street and that the neighborhood was partially residential.

Furthermore, the SJC emphasized the threat to public safety resulting from the fact that the vehicle may contain dangerous items was never addressed. The Commonwealth in its appeal focused on the fact that the vehicle was parked in a high crime area as the key reason for impounding the vehicle, rather than the possibility that the vehicle could contain dangerous items that are threat to the public. However, the Commonwealth did not argue public safety at the motion hearing in the District Court.

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